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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,042	03/15/2001	Claus Mohr Pedersen	472-1036	2332

7590 11/15/2002

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EXAMINER

COPIER, FLORIS C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 11/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/744,042	PEDERSEN, CLAUS MOHR
	Examiner Chad Copier	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 8-11 is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POULIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*pm*

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Spranger (DL 0135798). Spranger discloses an automatic fish processor with an adjustable conveyor (9), adjustable as a function of the length and shape of the fish to be processed (abstract) where the length is necessarily determined by measuring the height as it moves along the path were if the fish is not present, it has no height and where the mechanism responds to the height and length of the fish. Spranger further discloses a means for the collection and processing of data (2), required to set the machine depending on the size of the fish (abstract). Spranger also discloses a motor (6) and a spindle (7) for adjusting the angle of the conveyor.

### ***Claim Rejections - 35 USC § 103***

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spranger (DL 0135798) in view of Nordisch (DE 2709152 B1). Spranger discloses all of the features of the invention except a photocell detection means. Nordisch discloses a photocell sensor that is used to determine the length of the fish and that information is used to control tools and guides on a fish processing machine (abstract). Nordisch further discloses that the signals returned are recorded as pulses requiring a microprocessor to guide the tools. It would have been obvious to one having ordinary

skill in the art at the time the invention was made to include the electronic sensor of Nordisch with the adjustable conveyor and fish processor of Spranger to increase automation and consistency in the processing of the fish. It is noted that the invention of Nordisch was created specifically to be used with inventions such as Spranger's (abstract).

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spranger as modified in view of Russian Patent (SU 1001-909-A). Spranger as modified discloses all of the features of the invention except a gripping means having pivotal jaw that can be translated in a linear manner. Russian Patent discloses a gripping means as a pivotal jaw for moving a fish through a processing apparatus (abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the Russian gripping device with the Spranger as modified device to ensure the positioning of the fish during the processing operation.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spranger in view of Hjorth (US 5492502). Spranger discloses all of the features of the invention except a barbed wheel or drum. This is not, however a patentable distinction because adding barbs to a object gripping surface is old and well known and is merely a substitution for one gripping means for another. Hjorth discloses a belt having barbs to hold fish in place on a conveyor for a processing operation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the barbs of Hjorth in the device of Spranger in order to facilitate the fish being held on the surface and out of design choice between two alternative equivalent means.

***Allowable Subject Matter***

Claims 8-11 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 10/28/02 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., cutting the fish into equal proportions and angle of the knife) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Badder (GB 1073779), Sullivan (US 1525699), Evers et al. (US 5591076), Hartl et al. (US 3364514), Rudy et al. (US Re. 33904), and Grabau et al. (US 5871395) disclose similar features of the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Copier whose telephone number is 703-306-0939. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fcc

November 13, 2002



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